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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the situation of human rights in Afghanistan prepared by the Special Rapporteur, Mr. Felix Ermacora, in accordance with Commission on Human Rights resolution 1989/67

GE.90-10207/1497B

INTRODUCTION

1. Upon his appointment by the Commission on Human Rights in 1984, the Special Rapporteur was entrusted with the mandate "to examine the human rights situation in Afghanistan with a view to formulating proposals which could contribute to ensuring full protection of the human rights of all residents of the country, before, during and after the withdrawal of all foreign forces". This mandate has been renewed regularly by resolutions of the Commission and of the Economic and Social Council, with the request that the Special Rapporteur report to the Commission and to the General Assembly. So far, the Special Rapporteur has submitted five reports to the Commission (E/CN.4/1985/21, E/CN.4/1986/2, E/CN.4/1987/22, E/CN.4/1988/25 and E/CN.4/1989/24) and five to the General Assembly (A/40/843, A/41/778, A/42/667 and Corr.1, A/43/742 and A/44/669).

2. In November 1989, pursuant to Commission on Human Rights resolution 1989/67 and Economic and Social Council decision 1989/149 which extended his mandate for another year, the Special Rapporteur submitted an interim report (A/44/669) to the General Assembly containing preliminary conclusions and recommendations. After considering this report, the General Assembly adopted resolution 44/161 in which it decided to keep the situation of human rights in Afghanistan under consideration during its forty-fifth session in order to examine it anew in the light of additional elements to be provided by the Commission on Human Rights and the Economic and Social Council.

3. Consequently, the Special Rapporteur has the honour to submit the present final report to the Commission on Human Rights, in accordance with his mandate. This report describes the most significant new elements which, in the opinion of the Special Rapporteur, have affected human rights since his interim report (A/44/669) was submitted to the General Assembly in November 1989. These elements should therefore be considered in the light of the present update to that report.

4. In keeping with the approach which he has always adopted, the Special Rapporteur carried out two visits to the area during the period of his present mandate in order to obtain the most broadly-based information possible. The first visit took place from 9 to 20 September 1989 (Pakistan from 9 to 16 September and Afghanistan from 17 to 20 September) and from 30 September to 5 October 1989 (to the Islamic Republic of Iran). The findings are reflected in his interim report to the General Assembly (A/44/669). The Special Rapporteur again visited Pakistan from 7 to 11 January 1990 and Afghanistan from 12 to 14 January 1990, with a view to gathering up-to-date information for the purposes of the present report.

5. During the Special Rapporteur's last visit to Pakistan, he held talks in Islamabad with representatives of the Ministry of Foreign Affairs and with the Chief Commissioner for Afghan Refugees, as well as with representatives of the so-called Interim Government of the Islamic Republic of Afghanistan (Alliance of Mujaheddin).

6. In Quetta, Baluchistan Province, the Special Rapporteur met the Regional Commissioner for Afghan Refugees and visited the following hospitals for the treatment of Afghan war wounded: the International Committee of the Red Cross (ICRC) Surgical Hospital for War Wounded, the Makka Al-Mukarramah Surgical Hospital, and the Clinic for Afghan Women and Children. He also had talks with representatives of various humanitarian organizations based in Quetta.

7. During his visit to Afghanistan, in accordance with a schedule established in close co-operation with the Afghan authorities, the Special Rapporteur was received by the President of Afghanistan, the Minister for Foreign Affairs, the Minister of the Interior, the Deputy Minister for Repatriates, the First Deputy Minister for State Security, and the First Deputy Minister of Defence. He also met the chairman, vice-chairman and secretary of the National Salvation Society, a 15-member group founded in September 1989 with the aim of creating an atmosphere conducive to negotiation between all parties concerned in the conflict prevailing in Afghanistan.

8. In Kabul, the Special Rapporteur visited two hospitals for war wounded: the International Committee of the Red Cross (ICRC) Surgical Hospital and the "400-bed" military hospital. He also had the opportunity to inspect the sites of recent rocket attacks on the city.

9. In this connection, the Special Rapporteur wishes to point out that, despite the limited time available to him, he received the full co-operation of the Afghan authorities, who made all efforts to adapt the programme to his express wishes.

10. At this juncture, the Special Rapporteur wishes to place on record the particularly valuable assistance and broadest possible co-operation which he received from the Afghan and Pakistani authorities.

11. The information contained in this report completes that contained in the interim report to the General Assembly at its forty-fourth session (A/44/669). Therefore, unless otherwise specified, the present report is based on information gathered by the Special Rapporteur during his visit to Pakistan and Afghanistan from 7 to 14 January 1990. In the light of this information, chapter I evaluates the current situation of human rights in Afghanistan with special emphasis on the situation of refugees which, in the opinion of the Special Rapporteur, is to be considered as a continuing and paramount human rights problem. It also describes the human rights situation in government-controlled areas and combat zones, as well as in regions not under government control. Chapter II contains the conclusions and recommendations which the Special Rapporteur has drawn from analysis of this recently gathered supplement of information.

12. In submitting this report to the Commission on Human Rights, the Special Rapporteur wishes to reiterate that he continues to do his utmost, as in the past, to inform the Commission and the General Assembly in the most impartial and objective manner possible, with the sole aim of contributing to an improvement of the human rights situation in Afghanistan. He wishes to emphasize this point in order to dispel any misunderstanding as to his objectives as Special Rapporteur.

I. EVALUATION OF THE PRESENT SITUATION OF HUMAN RIGHTS IN AFGHANISTAN

A. General

13. In addressing the General Assembly, the Special Rapporteur pointed out that international public opinion had held high hopes of a drastic change for the better in the human rights situation in Afghanistan following the withdrawal of Soviet troops, but that despite the withdrawal, the situation in the country had not improved. Its nature may have altered, but the conflict

still exists. The path of war leads only to more casualties and suffering for the people. The figure of five million refugees has remained stable during the last year, since those returning were replaced with the arrival of new refugees. As long as the refugee problem exists, the human rights situation in Afghanistan will continue to have international repercussions. In addition, the terrorist acts in and around Afghanistan have brought a new dimension to the conflict. The right to self-determination is still an open question, which neither the Government nor the setting up of a so-called interim government has been able to solve.

14. The international dimension of the conflict is a reality admitted by all parties. One side claims that the Union of Soviet Socialist Republics supports the Afghan Government with large supplies of weapons, while the other claims that the United States of America supports the opposition groups with similar supplies of war materials. The previous situation of so-called undeclared war has now been claimed to have turned into a situation of interference in the internal affairs of Afghanistan.

15. Despite the resolutions unanimously adopted by the General Assembly and the Commission on Human Rights, public interest in human suffering and in the fate of the country has decreased since the withdrawal of Soviet troops and, whatever its causes, has had serious effects on assistance given by the international organizations.

B. The situation of refugees

16. Concern for the return of refugees has been expressed in numerous United Nations resolutions, in the Geneva agreements and in resolutions by various intergovernmental organizations, but this return has still not taken place in any significant numbers. Those returning to Afghanistan are being replaced by new arrivals seeking refuge in Pakistan and the Islamic Republic of Iran. According to official estimates from the Government of Pakistan, there were, at the end of December 1989, 3,280,959 refugees spread over the North-West Frontier Province, Baluchistan, the Punjab and Sind.

17. However, according to official statements, this figure did not take into account the birth rate or the number of unregistered refugees. For instance, the 74 camps located in the five administrative districts of Baluchistan contained 850,000 registered Afghan refugees; the number of unregistered refugees is estimated at over 100,000, mainly in Quetta. Births and deaths were not registered in the camps, though mandatory under Pakistani law. The birth rate was estimated at 3.5 per cent.

18. During September and October 1989, at the official invitation of the Government of the Islamic Republic of Iran, the Special Rapporteur was able to study, for the first time, the situation of Afghan refugees in that country and get an impression of how the Government handles the problem. His findings were reported to the General Assembly (A/44/669, paras. 33 to 37).

19. During his recent visit to Afghanistan, the Special Rapporteur received information according to which the Iranian Government intended placing Afghan refugees in camps along the Afghan border. A protest from the Government of Afghanistan had been delivered. The Special Rapporteur has been informed by the Iranian authorities that the plan had indeed not been carried out. However registration of refugees took place. However, should such a measure

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be introduced, it would not be in accordance with international law and would contravene the Geneva agreements to which, however, the Islamic Republic of Iran is not a party. Nevertheless, the provisions therein concerning the "voluntary return of the refugees to their homeland" correspond to the general policy of the United Nations.

20. In the period since the report was presented to the General Assembly, economic aid to the refugees dwindled even further, thereby diminishing the ability of the Office of the Pakistan Chief Commissioner for Afghan Refugees and of non-governmental organizations to assist.

21. The situation of women and children in the camps was unsatisfactory and the integration of Afghan refugees into local labour markets was beginning to create problems for the national economy in Pakistan.

22. The trend of refugees to return and the environment for their move were considered to be paramount. The statistics did not show any clear movement of refugees. It was reported that 600 families had left Baluchistan for the Kandahar region, but that between 700 and 800 families had newly arrived. Between May 1988 and October 1989, the number of persons formally removed from the list of refugees in Pakistan was 4,227; of those, 2,617 were from North-West Frontier Province and 1,381 from Baluchistan. It appeared that many refugees who returned home did so only on a temporary basis and tried to retain their ration card. It was also possible that many of those returning were unregistered.

23. The Afghan Ministry of Repatriation did not exclude the possibility of a total of 3.1 million refugees. According to official estimates submitted to the Special Rapporteur, the total number of returnees had risen from 203,943 in September 1989 (see A/44/669, para. 28), to 235,877 at the time of his visit in January 1990. Of these, 75 per cent came from Pakistan, 24 per cent from Iran and the remainder from other countries.

24. As already mentioned in his report to the General Assembly, the Special Rapporteur again noted that some refugees had returned to Afghanistan. Official estimates cite 235,877 returnees since the proclamation of the so-called policy of national reconciliation, distributed as follows: Herat 54,330; Farah 5,932; Nimruz 10,063; Arzagan 1,139; Faryab 3,679; Ghorat 179; Badghis 518; Djozjan 2,328; Bamyan 773; Samangan 1,510; Mazar Sharif 5,525; Baghlan 6,443; Kunduz 12,547; Takhar 1,084; Badakhshan 103; Helmand 6,338; Kandahar 29,304; Zabul 4,284; Ghazni 3,759; Paktika 3,473; Khost 3,299 (?); Paktia 5,379; Logar 10,351; Nangarhar 46,452; Laghman 3,234; Parwan 3,539; Kapisa 604; Wardak 187; Kabul 5,952; Kunar 2,466; and 5,765 to two unidentified areas. In this connection, the Special Rapporteur was informed that the Government of Afghanistan was continuing to take steps to facilitate the return of refugees and provide them with conditions conducive to their return.

25. The Afghan Government had budgeted over AFG 2 billion for the refugees. They had been forced to close some roads and centres normally used by the refugees, due to the insecure situation. While 5,000 beds had been destroyed, 7,700 had been supplied and a new centre, at Chaharasiad (East Kabul), set up to replace that at Torkham which had been destroyed. In this connection, it was reported that seven civil servants employed by the Government to administer the refugees in Torkham had been captured, four of whom had been executed.

26. The Government stated that it had so far provided the following infrastructure for returnees: 4 receiving points (at Islam Qala, Kabul, Torkham and Spinboldak), 31 "peace guest houses", 12 receiving camps and 1 "camping guest house".

27. Rumours that Afghan refugees trying to return home had been hindered by threats of force or by moral appeals from the opposition forces were more widespread than ever, and they were even termed "collective hostages". For example, it was reported that in Quetta more than 11,000 refugees had been prepared to return (6,000 to Kandahar, 5,000 to Balkh and 800 to Kabul) but had encountered obstacles preventing them from doing so. However, the Special Rapporteur was unable to verify these allegations.

28. Over the months, the reasons given by refugees for returning or for going into exile had changed: political motivations had diminished and been replaced by economic grounds. Lack of water supply, housing and security in the regions where they lived were among reasons given to the Special Rapporteur. However, in some provinces in the western region which were relatively peaceful, refugees had returned to reconstruct their lives.

29. Lack of security had increased as a reason not to return or to seek refuge and had indeed become a complex argument: this had led to a breakdown of law and order and of a stable administration, and to the fear of arbitrary shelling and threats on the part of commanders of the opposition. Also, the existence of minefields in some regions was an additional reason not to return.

30. The Special Rapporteur draws the attention of the Commission to paragraph 39 of his report to the General Assembly (A/44/669), in which he observed the extent to which the refugees were the subject of threats, intimidation and killings.

C. Situation of human rights on government-controlled areas

31. In his report to the General Assembly, the Special Rapporteur described the existence of areas under the authority of local commanders of opposition forces which had been set up under agreements with the Government, known as "peace zones". However, according to additional information received by the Special Rapporteur during his last visit to Afghanistan, these have since been abolished. This information was confirmed by both sides, but with contradicting arguments. The Government claimed they had been abolished because, despite all their efforts, it had proved impossible to maintain adequate administration for the security of the population, while the opposition movements maintained that such "peace zones" in fact never existed. Based on the conflicting information he received, the Special Rapporteur was not in a position to ascertain the extent of the territory controlled by either side.

1. Civil and political rights

32. In his report to the General Assembly (A/44/699), the Special Rapporteur referred to the declaration of a state of emergency by the Afghan Government, and to its legal and factual consequences. During the period under consideration, the state of emergency was still in force but would appear to have had little incidence on the human rights situation in general. The

Government claimed that the state of emergency had been introduced to protect the country against terrorism, and not as a measure against the people. After the report of the Special Rapporteur had been submitted to the General Assembly, he was informed that by presidential decree in October 1989, the authority of the National Assembly as enshrined in article 81 (1) of the Constitution, which had been transferred to the Council of Ministers under the provisions of the state of emergency, had been delegated back to the National Assembly, which had in fact continued to be active throughout the state of emergency. As a consequence, any further restrictions of human rights foreseen by various provisions of the Constitution referring to a state of emergency might only be brought into effect by law and not by presidential decree.

33. During the state of emergency, reports were received of an uprising on the part of certain Afghan army officers and it was claimed that, on 2 December 1989, the secret police had arrested 127 suspects including 11 generals. According to the Ministry of State Security, the plot was orchestrated by an urban guerrilla organization known as "Sheffa", in which 40 officers were involved. No one was killed and 131 persons were arrested, of whom three were later released; the others were awaiting trial.

34. The Special Rapporteur was informed by the authorities that, at the time of his visit to Afghanistan, the number of prisoners in Afghanistan totalled 4,301. In Pol-i-Charkhi, there were 3,152 prisoners (including 30 women and 34 foreigners), of whom 2,290 were political.

35. The Special Rapporteur received from the authorities the following breakdown of the prison population in Afghanistan at 3 January 1990:

Town	Total	Political
Kabul	3,152	2,290
Helmand	36	12
Balkh	273	71
Ningarhar	150	37
Badgis	5	3
Djozdjan	142	72
Farah	66	51
Samanghan	14	10
Baghlan	30	-
Kunduz	123	71
Badaghshan	11	8
Paktia	6	-
Khost	31	11
Parwan	21	3
Herat	167	125
Faryab	45	23
Kandahar	30	-
Nimruz	-	-

36. The prison population was not at all stable. Since the inception of the policy of national reconciliation, 306 amnesty decrees had been granted to some 17,609 detainees, including 4,060 common law prisoners and 13,549 State security prisoners. Since September 1989, 64 amnesty decrees brought about

the release of 597 persons, including 257 political prisoners, and the reduction of 419 prison terms. The Ministry of State Security informed the Special Rapporteur that 466 persons, including 13 foreigners, were being detained in Kabul for interrogation concerning problems of State security, while a further 167 were detained in other parts of the country.

37. The Special Rapporteur reported on the right to life, freedom and security in paragraphs 46 to 56 of his report to the General Assembly. He has since been informed that the International Committee of the Red Cross has completed its regular visit, the third of this kind, to convicted prisoners in Afghan gaols in December 1989, in conformity with its standard criteria.

38. The Special Rapporteur was informed of certain improvements in the psychological conditions in the prison.

39. As mentioned in his report to the General Assembly (para. 57), the Special Rapporteur was authorized for the first time to visit the Dar-El-Taadib Rehabilitation Centre for Adolescents. Due to lack of time, he was unable to pay a second visit to this centre during his visit to Kabul in January 1990.

40. At this juncture, it should be pointed out that in his report to the General Assembly in 1987 (A/42/667, paras. 71 to 72), the Special Rapporteur made an in-depth study of the question of juveniles who had been awarded scholarships by the "Perwarischgahi Watan" Institute to study in various socialist countries. This matter was again brought to his attention during his last visit, in a manner which led him to believe that such practices were still continuing.

2. Right to education and economic rights

41. In his interim report to the General Assembly (A/44/699, paras. 58 to 68), the Special Rapporteur considered the human rights situation with regard to the present education system in Afghanistan. All the information which has come to his attention points to the fact that despite the efforts deployed by the authorities in the field, their objectives cannot be attained because of the prevailing situation of war in the country.

42. Concerning the enjoyment of economic rights in Afghanistan, the information contained in the interim report submitted to the General Assembly (A/44/699, paras. 70 ss) were confirmed. While the Afghan Government upheld that the distribution of basic foodstuffs had been an improvement on the previous year, reports from the common people maintained the contrary, particularly as regards the rate of inflation. According to information received by the Special Rapporteur, economic conditions in Afghanistan in general deteriorated further during the period under consideration. The price of certain basic foodstuffs were reported to have increased dramatically, as illustrated by the following comparison of some prices in Kabul: 42kg of rice increased from AFG 4,200 in January 1987 to AFG 16,800 in January 1990; 15kg of mutton increased from AFG 3,750 to AFG 13,500; 14kg of sugar increased from AFG 420 to AFG 5,600; 1kg of tea increased from AFG 800 to AFG 2,000, and the price of two cans of milk increased from AFG 600 to AFG 6,400. This economic escalation has been compounded by a social problem resulting from the continuation of the war, namely the flow of displaced persons heading for urban areas in search of food.

43. The Special Rapporteur is in possession of several reports prepared by United Nations organs and non-governmental organizations concerning the overall situation in different regions of Afghanistan, including Helmand, the Panshir Valley and Kunnar Province. Taken in conjunction with the reports mentioned in his report to the General Assembly, it can be seen that, despite the efforts of the Government, the economic situation of the country as a whole is alarming. It is reported that progress is being made in some regions towards reconstruction, but in areas not under government control it is alleged that material for this purpose is only distributed according to affiliation to parties or armed groups. As a consequence of such widespread discrimination, these goods only reach a small portion of the population and general basic needs are not met. It behoves the United Nations to support both sides of the military conflict in a non-discriminatory manner.

44. In this connection, according to information made available to the Special Rapporteur, more than 2,000 tons of wheat as well as clothing, ambulances, prefabricated houses and blankets were dispatched from Rome (Italy) to Afghanistan in December 1989 by means of a special train named the "Salam Express". This action was organized by the Office of the Co-ordinator for United Nations Humanitarian and Economic Assistance Programmes Relating to Afghanistan. The goods, which had been provided partly from existing United Nations stocks and partly from the Holy See, Italy, Norway and the USSR, were to be distributed to the needy in Afghanistan, particularly those living in the northern provinces of Badakhshan, Badgis, Faryab and Herat. The Special Rapporteur was informed that the civilian population in Badakhshan, for instance, was in a particularly precarious situation due to malnutrition, narcotics and severe winter conditions.

D. Situation of human rights in areas not under government control

45. The opposition movements currently claim to have control over 95 per cent of the territory. In the opinion of the Special Rapporteur, this figure must be viewed with caution, since the opposition movements do not in fact exercise control over the main cities, villages or other centres of administration. The Special Rapporteur's personal observations lead him to believe the territory referred to is mainly "no man's land".

46. According to information received by the Special Rapporteur, when an area is taken over, it is not placed under the so-called Afghan Interim Government but under a field commander. This particular situation does not guarantee the full respect of basic law and order because full representativity and an effective authority are lacking. Although "shuras" have been set up in some areas, they do not represent an administrative authority *per se*. The only example where a semblance of administrative authority exists is the Panshir. It was therefore stated that the impediment to the return of refugees, for instance, is precisely this lack of an effective authority.

47. As regards the human rights situation in areas not under government control, although the Special Rapporteur has so far been unable to visit any such areas, he has received corroborating allegations from a variety of sources concerning the killing of Afghan soldiers, Mujaheddin and civilians by members of opposition movements. He therefore considers it necessary to draw the attention of the Commission, by way of example, to several cases reported to him during his last visit to the region.

48. A very reliable report on human rights abuses by elements of the Afghan resistance has been prepared by Asia Watch, an independent non-governmental organization that monitors and promotes human rights throughout Asia. To the extent that the aforementioned report provides information relating to human rights issues, the Special Rapporteur feels obliged to draw the attention of the Commission to the following allegations, while being unable to verify them:

(a) The Tarkhar massacre

49. On 9 July 1989, members of the Hezb-e-Islami ambushed members of Jamiat-e-Islami, reportedly killing five and summarily executing 25 others whom they had taken into custody. It was alleged that they had been tortured before being executed. On 18 August 1989, in an attempt at retaliation, members of Jamiat-e-Islami launched an attack on Hezb-e-Islami members resulting in a number deaths and many prisoners, including Seyeed Jamal, who had allegedly been considered responsible for the July 1989 massacre.

50. On 2 January 1990, the Special Rapporteur was informed that four members of Hezb-e-Islami including Syeed Jamal had been executed on 22 December 1989 by Jamiat-e-Islami.

51. Asia Watch has raised concerns that judicial proceedings do not conform to internationally recognized standards of fair trial, and that the accused do not generally have the right to defence counsel or to appeal.

(b) Killings of aid representatives and intellectuals

52. In his report to the General Assembly (A/44/669, para. 39), the Special Rapporteur referred to allegations of threats, indimidation and killings of Afghans on account of their activities or opinions which, in the opinion of members of the opposition forces, are considered to be anti-Islamic or dangerous. In this connection, the Asia Watch report confirms the allegations received by the Special Rapporteur concerning the assassination of Mr. Nasim Ludin, Director of the Afghan Health and Social Assistance Organization, and the disappearance on 3 September 1989 of Abdul Fatah Wadud, an employee of the United Nations World Food Programme.

53. The Special Rapporteur had no further information concerning the case of Professor Sayd Majrood, who was murdered in Peshawar (Pakistan) on 11 February 1988 (see report E/CN.4/1988/25, para. 12).

54. Further allegations of threats and indimidation were once again drawn to the attention of the Special Rapporteur.

(c) Indiscriminate attacks on cities

55. Asia Watch reports that, "During the course of the war, hundreds of thousands of civilians died as a result of indiscriminate bombing by Soviet and Afghan aircraft. More recently, Soviet-supplied SCUD missiles, fired indiscriminately by Afghan Government forces into resistance-controlled areas, have killed hundreds of civilians. According to press reports, rocket attacks on Kabul and other major cities by the resistance have also increased in recent months".

56. According to the same source, reports have "... described widespread devastation caused by such rocket attacks in civilian areas of Kabul in which

there are no military targets. (...) On 22 July (1989) a rocket struck a crowded outdoor market in Kabul, killing at least 20 people and wounding 150. On 10 October, at least 23 people were killed when a rocket exploded at a crowded bus stop in central Kabul. Rockets have also exploded in apartment complexes, clinics and day-care centres. Such attacks have occurred with far greater frequency than would be the case if military targets were missed only 'ocasionally'".

57. In January 1990, it was reported that opposition movements had launched an attack in the eastern town of Jalalabad (Nangarhar Province), shelling civilian areas. It was subsequently reported that the Afghan Government had counter-attacked with war planes and artillery raids, killing more than 40 members of the opposition movements.

E. Situation of human rights in combat areas

58. As stated in the report of the Special Rapporteur to the General Assembly (A/44/699, paras. 77 ss), the state of war following the withdrawal of Soviet troops has undergone certain changes. Opposition movements occupy territory bordering on Pakistan, which they term "liberated areas". However, it appears that these areas are largely depopulated and the few remaining civilians are the victim of government attacks inasmuch as they are in proximity to military targets. So called "peace zones" no longer exist and government military action strikes opposition forces wherever possible: the population of cities such as Jalalabad, Khost, Herat and Kandahar are the victims of continuous warfare.

59. As on previous occasions, the Special Rapporteur witnessed many casualties during visits to hospitals in Pakistan and Afghanistan, where he received figures concerning patients, including women and children, who had been wounded either due to the fighting, as a result of acts of terrorism or from mine blasts. The figures for the ICRC hospital in Quetta for November 1989 were as follows: 161 patients admitted and 310 surgical operations performed. In the Makka-Al-Mukarramah Surgical Hospital the figures for the whole of 1989 were 1,409 admitted and 1,263 operated. In Peshawar, the ICRC hospital had 249 admissions for November 1989 and 655 operations.

60. The situation in hospitals in Kabul is identical. For example, in December 1989, the ICRC hospital admitted 208 war wounded and in January 1990 admissions were said to be on the increase. In the "400-bed" military hospital, more than 1,000 patients per month have been treated since March 1989; by mid-January 1990, the figure stood at 900. Since 1978, the hospital has treated more than 100,000 war wounded. In addition to these hospitals in Kabul, and others in Jalalabad, Kandahar and Khost, the various branches of the armed forces and security forces have recently established their own facilities. The Ministry of the Interior set up a hospital in 1985, in 1989 one was opened by the Ministry of Security, and another is in the process of being set up for the airforce. This would tend to demonstrate the need to care for an increasing number of war wounded.

61. As regards the particular problem of mines scattered throughout Afghanistan, the situation remained the same as described in the interim report to the General Assembly (A/44/669, paras. 86 and 90). Information received during the last visit tends to confirm that the mine syndrome

continues to be a particular cause for anxiety. As already stated in previous reports, the Special Rapporteur is of the opinion that a most important aspect of the right to life, and one which requires immediate action, is the clearance of mines throughout the entire territory of Afghanistan. In this connection, it shjould be recalled that the marking of minefields and their clearance after a war is the responsibility of the party which laid them. Unfortunately, according to information received, many minefields in Afghanistan were not mapped and most of the mines are still in place. However, Afghan Government officials stated that it possesses maps indicating the location of its minefields, and showed the Special Rapporteur several maps of such areas. They stated that, notwithstanding the continuing conflict, it had taken concrete measures to clear the minefields in several areas of the country.

62. In this connection, the Special Rapporteur was informed of the setting up of a mine awareness and disposal programme sponsored by the United Nations with two objectives: (a) to provide the Afghan people, in particular the refugees and displaced persons, with sufficient awareness of, and skills to address, the danger posed by mines and unexploded ordnance in order that they might return home and rebuild their lives in confidence and safety, and (b) to initiate mine clearance activities inside Afghanistan, developing Afghanistan's own capacity to deal with the problem of mines and unexploded ordnance during the years to come. Mine-clearance training is being carried out by experts from Australia, Canada, France, New Zealand, Norway, United Kingdom and United States of America.

63. While appreciating all the measures taken, the Special Rapporteur considers that unless mines are cleared, the reconstruction of Afghanistan is going to be held up indefinitely. In addition, according to information received from the Office of the United Nations Co-ordinator, two mine disposal training camps have been set up in Pakistan in 1989: one in Risalpur (near Peshawar, North-West Frontier Province) and one at Baleli (near Quetta, Baluchistan Province), with a training capacity of 500 and 200, respectively. During the year 1989, 5,900 Afghans were trained in basic mine disposal, 80 as master mine-disposal instructors, and 60 as mine-disposal team leaders.

64. The following statistics, furnished by the Afghan Government, indicate the importance of the phenomenon and emphasize the urgent need for the international community to strengthen and expand existing measures. From 1980 until the date at which the Soviet troops were withdrawn, they had laid 170,235 mines in various security areas, while the Afghan forces laid 453,000. A further 300,000 mines were laid by the Afghan army since then. According to the same Afghan authorities, these mines were laid around strategic economic and military areas in order to strengthen defence and ensure security. Such areas are clearly indicated to ensure the security of the population. The Afghan Government also drew the attention of the Special Rapporteur to the existence of a number of minefields laid by the opposition movements, and stated that in fact mine-laying continues on both sides.

65. The Afghan Government clearly indicated to the Special Rapporteur its readiness to co-operate in the process of mine clearance and stressed the need for both co-operation between all parties involved and political willingness to assess the existing minefields.

66. The attention of the Special Rapporteur was drawn to the fact that mine-disposal efforts were facing additional problems with so called "toy" bombs which, being extremely lightweight, are often displaced by natural

forces such as heavy rainfall and deposited in unexpected areas. The Special Rapporteur saw many victims of such bombs in the hospitals which he visited in Pakistan.

67. The Special Rapporteur was informed by the Afghan Government that it has set up a mine-disposal operation and is willing to co-operate with the Office of the Co-ordinator for United Nations Humanitarian and Economic Assistance Programmes Relating to Afghanistan.

68. Since his last report to the General Assembly, the Special Rapporteur has received information concerning the use of SCUD-II missiles by the Afghan forces in the provinces of Laghman, Nangrahar, Paktia and Zabul, where continuous bombing was reported. In Wardak, Loghar, it was reported that a new, short-range missile (80km), Luna-II, was being used. On the other hand, reports were also received of the continued use by opposition forces of American-made "cluster" bombs, which constitute one of the most terrifying types of weapon currently being used in the conflict.

69. The Special Rapporteur has inspected the craters and destruction caused by some of these heavy weapons and is of the opinion that those used by the opposition forces have mainly affected the civilian population. Those used by the Afghan forces are mainly concentrated on military targets, but inaccuracy of aim often appears to lead to destruction of civilian targets, causing much fear among the population. The SCUD missile which fell on Pakistan soil on 10 January 1990 is one example which, fortunately, appears not to have caused any casualties.

70. The fate of prisoners is of special concern under humanitarian law. In this particular conflict, the problem is not only the so called political prisoners in the Afghan gaols but also the prisoners being held by the opposition forces. The cases of some Soviet prisoners have been clarified through the efforts of the International Committee of the Red Cross, but it appears that many other prisoners are still held by the opposition forces. In December 1989, the International Committee of the Red Cross completed its visit of convicted prisoners in Afghan gaols, to which the Special Rapporteur has on several occasions had access, but it has so far been impossible to visit prison camps established by the opposition forces. This is a problem which cannot be overlooked.

71. In addition, the Special Rapporteur is particularly concerned about the respect of human rights, especially with regard to the divisions between the various factions making up the opposition movements, which may give rise to increasing exactions on opponents or on the civilian population.

72. In two previous reports to the General Assembly, the Special Rapporteur has dealt with acts of terrorism (A/43/742, paras. 118 to 121, and A/44/669, para. 88). The concept of acts of terrorism is clearly defined in the First Additional Protocol to the Geneva Conventions of 12 August 1949. Previously such acts were attributed to forces intervening in Afghanistan, but they may now be attributed to opposition forces. Terrorist attacks are perpetrated against personalities within the Afghan community or those serving a common cause. In this context, the Afghan Government claims that, since 1 September 1989, acts of terrorism in Kabul have caused the death of 1,137 persons, injured 2,729, and destroyed 401 houses, 38 shops, 3 hotels and 4 mosques.

73. A brochure entitled "In Continuation of Interferences" published in October 1989 by the Afghan Government contains a long list of allegations attributing many acts of terrorism to foreign elements. However, the Special Rapporteur is unable to verify such allegations.

74. Particular reference must be made once more to the atrocities which reportedly took place during the battle for Jalalabad and are allegedly attributable to the opposition forces. The Special Rapporteur heard persons who had been witnesses to the looting, rape and killing of civilians in the Abrishan area on the Jalalabad-Kabul road, and in particular the abhorrent treatment of children. Also mentioned was the village of Shiva, where women and elderly persons were alleged to have been treated in a manner contrary to any code of honour or of warfare. The Special Rappporteur expressed astonishment at the lack of complete investigation into these serious allegations.

F. Right to self-determination

75. In his previous reports, the Special Rapporteur recalled that, since the beginning of the conflict, the principal organs of the United Nations have always stressed the necessity to respect the right of the Afghan people to self-determination, in conformity with article 1 of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Political Rights. The exercise of this right requires also that a people shall be able to choose freely the type of government it wishes to have. In the case of Afghanistan, the latter presupposes the free and voluntary return of all refugees to their homeland as foreseen in the Geneva Agreements of April 1988. As long as conditions favouring the return of the refugees have not been created, a genuine exercise of the right to self-determination cannot take place. The United Nations and all humanitarian organizations have incessantly called for the creation of conditions enabling the free and voluntary return of more than five million refugees to Afghanistan. In this connection, the Special Rapporteur notes that one major condition for the return of the refugees, namely the withdrawal of the Soviet troops, has now been fulfilled.

76. The Special Rapporteur considers that the right to self-determination continues to be violated. The five million refugees have been unable to exercise this right so far, and the inhabitants of Afghanistan, while having the right to vote, are unable to express their political will freely other than to seek asylum elsewhere. The opposition movements have also been unable to guarantee the right of self-determination to the refugee population. The first step towards self-determination will have been taken when the Afghan people as a whole is able to express its political will in conformity with article 1 of the above-mentioned International Covenants to which Afghanistan is a party.

77. An important feature of the self-determination process is undoubtedly a spirit of self-reliance and determination on the part of the people. The Special Rapporteur encountered one such movement for the first time during his visit to Afghanistan in January 1990. He met representatives of the newly-formed National Salvation Society which, at a meeting in September 1989, had formulated a declaration of intent appealing to all Afghans to create an atmosphere conducive to negotiations among the parties involved. In addition, its declared goals appear to be in conformity with the spirit of the United Nations Charter.

II. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

78. The following conclusions are drawn in the light of the Special Rapporteur's scrupulous analysis of the information contained in the preceding chapters. They are his personal views on the overall situation of human rights in Afghanistan, and remain a matter of even deeper concern after the withdrawal of the Soviet troops:

1. The armed conflict in the country is still going on. The Afghan Government defends its authority against armed opposition movements whose goals are to break the present "non-religious" régime and replace it with another, more "fundamentalist", faction. The country has become the theatre of a struggle between so-called "super powers" at the expense of the Afghan people.

2. These facts seriously compromise human rights and humanitarian law which is binding on all parties to the conflict. Due to the nature of the continuing hostilities, the problem of refugees remains unchanged.

3. The hope that, once the Soviet troops had withdrawn, the refugees would return, has not been fulfilled. The United Nations has only recently perceived the full role and influence of the opposition movements in organizing the five million refugees along party lines.

4. The Afghan Government claims to have allocated a large portion of its budget and considerable manpower to the needs of returning refugees. Despite the alleged return of about 235,000 persons, some five million refugees remain in exile. The Special Rapporteur has nevertheless been advised of certain moves towards their return. This fact is the subject of increasingly widespread rumours, but the Special Rapporteur has also received reports of various obstacles being placed in their way.

5. The obstacles to the return of refugees do not reside in the physical or economic instability of the country alone, or in the lack of an effective administration in provinces not under government control, but also in a growing pressure not to return. The refugees are thus placed in the desperate position of "collective hostages". This situation is contrary to international law and the spirit of the Geneva agreements.

6. As the refugee problem drags on, interest in their fate diminishes and their situation is gradually perceived as being normal. This has resulted in a sharp decrease of international aid, despite the efforts of international organizations, in particular the Office of the Co-ordinator for United Nations Humanitarian and Economic Assistance Programmes Relation to Afghanistan, to mobilize the international community.

7. The existence of minefields in many regions of the country is a further obstacle to the return of refugees. The Afghan Government is in possession of maps indicating the location of both Afghan and Soviet minefields, and has expressed its willingness to collaborate with international agencies in bringing a solution to the problem. It is also giving mine detection and disposal training. However, until a political

settlement is reached between the parties concerned with a view to ending the conflict, there are little prospects for a solution to the minefield problem. The lack of maps indicating the location of minefields laid by the opposition movements is a further obstacle to carrying out a systematic mine detection policy. In the meantime, minefields endanger the lives of the population at large.

8. The hospitals in Pakistan and Afghanistan are still filled with war wounded and the statistics taken as a whole indicate that the conflict has not abated. No significant decrease in the numbers of wounded is foreseeable.

9. Far from ceasing, the armed conflict has intensified in particular around large towns and villages and strategic points. The Government is now conducting a defensive war, but this does not change the situation of the right to life and personal security which are constantly threatened.

10. There appears to be an increase in civilian targets, which is contrary to humanitarian law. Government forces endeavour to hit mainly military goals, whereas the opposition forces seem to fire indiscriminately, as well as committing acts of terrorism as defined by the First Additional Protocol to the Geneva Conventions. The shelling of cities and public places such as markets, bus stations, mosques and schools has caused the death of more than 1,000 civilians since September 1989. Other forms of terrorism have been reported, such as assassinations or the abuse of women and children. It has not been possible to trace the underlying responsibility for these acts.

11. Despite the alleged release of 17,000 prisoners from Afghan prisons since 1987, under various amnesty decrees, there is a constant of about 3,000 political prisoners, detained for crimes against State security. It is a matter of concern that a broad interpretation is given to the term "state security". The conviction of prominent figures on such charges and the flight of eminent political and scientific personalities tends to prove the general feeling of insecurity. The recent founding of the National Salvation Society, and its appeal to the Afghan people, are expressions of the evident concern felt by persons familiar with the situation in the country.

12. The improvements in psychological conditions for those under prison sentence must be welcomed. But the International Committee of the Red Cross, while benefiting from unrestricted access to those prisoners, should also be allowed to visit prisoners awaiting trial or verdict.

13. The opposition movements are also exercising jurisdiction and holding prisoners, but it is impossible to find out about their fate. Humanitarian law imposes the same criteria on both parties to a conflict: since the Afghan Government opens its prisons to international organizations, the opposition movements should not retain prisoners as virtual hostages.

14. The Special Rapporteur has been unable to visit areas not under government control, but it is alleged that such regions are seldom effectively administered and that many are considered to be no-man's-land. In addition, the Government has abandoned its policy of creating so-called "peace zones" or "peace regions".

15. An orderly educational system exists only in government-controlled areas, while in other areas the attempts at education are sporadic and not systematically followed through, giving rise to a generation of illiterates.

16. Economic rights are adversely affected by the war. When supply routes are open, the distribution of foodstuffs is guaranteed and goods reach the markets, and this leads to lower prices. However, in winter, inflation soars due to a deliberate blockading policy on the part of the opposition forces. It is doubtful whether such actions are in conformity with humanitarian law, inasmuch as they affect mainly the civil population and are aimed at political rather than military goals.

17. Full respect for human rights in Afghanistan will only result from a political solution to the conflict. Military action may enhance the personal honour and selfish goals of various groups and individuals but cannot serve the welfare of the country or its people.

18. An atmosphere which is conducive to negotiation between all parties involved must be created. The armed conflict, which is rejected by many persons with whom the Special Rapporteur spoke, does not contribute to building such an atmosphere. It is only through dialogue that the bloodshed, mine-laying and shelling will cease, and the refugees will be encouraged to return.

19. It is a matter of satisfaction to the Special Rapporteur that the General Assembly has adopted several of the recommendations contained in his reports.

B. Recommendations

1. The Special Rapporteur wishes to reiterate the recommendations contained of his report to the General Assembly (A/44/669, paras. 106 and 107).

2. The respective bodies of the United Nations should not hesitate to collaborate with both the Afghan Government and the opposition forces on the subject of mine detection. The conditions have been stated and, on the Government side, the maps of minefields are available.

3. All efforts must be made by both the opposition movements and the Afghan authorities detaining prisoners:

(a) to upgrade conditions of detention as well as treatment of prisoners to Standard Minimum Rules for the Treatment of Prisoners;

(b) to respect the right to life by all means.

4. The opposition movements should unconditionally open their prisons and detention centres for visits of prisoners by international humanitarian organizations such as the International Committee of the Red Cross.

5. Adequate conditions for the return of refugees should be created through international aid, regardless of the controlling faction in the areas concerned.

6. The mixed commissions provided for in article IV of the Geneva Agreements on the voluntary return of refugees should be set up. While the Government of the Islamic Republic of Iran is not a party to the agreements, it should none the less be invited to participate in the setting up of such mixed commissions.

7. No obstacles whatsoever should be placed in the way of refugees desirous of returning to Afghanistan. On the contrary, conditions conducive to their return should be created in order to encourage them to do so.

8. The Commission on Human Rights should appeal for the acceptance of unconditional dialogue between all parties to the conflict with a view to finding a peaceful solution.

9. The United Nations bodies concerned should continue to provide assistance to both belligerants in the conflict in a spirit of impartiality.

10. It is the Special Rapporteur's opinion that the Advisory Services of the United Nations should be called upon to assist in improving the respect of human rights to which all parties to the conflict adhered, whether under formally-taken obligations or under obligations resulting from the generally recognized standards of human rights and humanitarian law.